



**Seattle**  
Office of Immigrant and  
Refugee Affairs  
**Cuc Vu, Director**

October 6, 2019

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Samantha Deshommes, Chief  
Regulatory Coordination Division, Office of Policy and Strategy  
U.S. Citizenship and Immigration Services  
Department of Homeland Security  
20 Massachusetts Avenue NW  
Washington, DC 20529-2140

**Re: Public Comment Opposing Revision of a Currently Approved Collection: Medical Certification for Disability Exceptions, OMB Control Number 1615-0060, Docket ID USCIS-2008-0021**

Dear Ms. Deshommes:

The City of Seattle Office of Immigrant and Refugee Affairs (“OIRA”) respectfully submits the following comments related to proposed changes to U.S. Citizenship and Immigration Services (USCIS) revision of a Currently Approved Collection: Medical Certification for Disability Exception (Form N-648), Docket ID Number 2008-0021, OMB Control Number 1615-0060.

The City of Seattle (“the City”) created the Office of Immigrant and Refugee Affairs in 2012 to improve the lives of Seattle’s immigrant and refugee families. The City, through OIRA, funds and coordinates two naturalization programs called the New Citizen Campaign (NCC) and the New Citizen Program (NCP). Both are joint efforts to help the estimated 75,000 Seattle-area legal permanent residents (LPRs) become U.S. citizens, which include a significant population of immigrants who may qualify for an exception to the English and civics testing requirements for naturalization because of physical/developmental disability or mental impairment. Since its inception in 1997, NCP has served over 19,000 people, provided naturalization assistance to over 12,300 LPRs, successfully naturalized 9,500 LPRs, and provided over 90,000 hours of citizenship instruction. NCC works with community partners to co-host events called citizenship clinics and workshops all over Seattle that have, to date, served approximately 1,900 LPRs.

These comments are based on the expertise of OIRA staff, who have extensive knowledge and experience in administering naturalization services and assisting individual applicants to apply for U.S. citizenship, as well as experiences of the community partner agencies that regularly provide services to individual applicants directly and in workshop settings.

**I. The City of Seattle strongly opposes the proposed revisions to the Form N-648.**

Citizenship provides significant benefits for both the individual and the nation as a whole. Access to naturalization for people with disabilities should be strengthened not weakened. According to the U.S. Census, Americans with disabilities are one of the largest minority groups in the United States.<sup>1</sup>

The proposed edition of Form N-648 contradicts the purpose and the intent of the statute and will create an undue burden for the most vulnerable applicants for naturalization. The revised form will be a barrier preventing many vulnerable applicants from applying for and obtaining naturalization.

## **II. Specific Concerns**

### **A) Too many N-648-related changes introduced in one year creates confusion and uncertainty for everyone involved.**

In a span of less than one year, USCIS has made multiple changes related to the N-648 form, as well as to the policy and procedure of its adjudication.

First, on December 12, 2018, USCIS issued a new policy guidance in the USCIS Policy Manual, which updated and clarified filing procedures and adjudications of the Medical Certification for Disability Exceptions (Form N-648). This new policy went into effect on February 12, 2019. This policy significantly altered the way that N-648s were to be adjudicated. For example, it required the applicants to submit the N-648 at the same time as their N-400, Application for Naturalization. This is a significant change from the previous standards that allowed the N-648 to be submitted at any time up to and including the naturalization interview. A few months later, on June 12, 2019, USCIS issued a new edition of N-648 (05/23/19 edition date) and started requiring only that edition be used for applications filed on or after August 12, 2019. USCIS should be focused on proposed rules that would make naturalization processing more efficient, not more needlessly bureaucratic, which wastes federal resources and taxpayer dollars.

Now, USCIS is proposing yet another edition of the N-648 form while no laws or regulations have changed to trigger the new and substantially different N-648 form. All of these changes in rapid succession will inevitably lead to confusion, delays, and uncertainty. This is because applicants and their medical and legal providers, for whom the N-648 process has been onerous to begin with, have had to constantly adapt to policy and form changes by updating their processes in order to satisfy the new requirements. If the revision becomes final, both the City and nonprofit service providers will need to update and change internal/external forms/protocols, websites, and outreach materials that will result in significant unbudgeted financial expenditures.

In the Seattle area, N-400 processing times are up to 20 months<sup>2</sup>. This proposed revision will likely increase this processing time, as the proposed rule creates an even longer wait for those applying with an N-648. Applicants will be required to have their doctor complete this form before the applicant is even able to enter the N-400 processing line. The likely result will be processing times much longer than 20 months.

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<sup>1</sup> Americans With Disabilities: 2010, <https://www.census.gov/library/publications/2012/demo/p70-131.html>

<sup>2</sup> As per <https://egov.uscis.gov/processing-times/> accessed on October 16, 2019.

**B) The form is too long and complicated, and it goes beyond the scope of INA § 312(a)(b)(1) and 8 CFR §312.1(b)(3) and 8 CFR §312.2.**

The current form N-648 is six pages long and contains 12 questions on the applicant's disability or impairment. The proposed form is nine pages long and contains 23 questions. The proposed form adds questions about the date that each disability/impairment began; the date of diagnosis; the severity of each disability/impairment; how each disability/impairment affects the applicant's daily life activities; why each disability/impairment is expected to last over 12 months; which disability/impairments are the result of illegal drug use; the frequency of treatment; and whether the medical professional questioned the interpreter about his/her fluency in English and about his/her accuracy/completeness in interpretation.

Most of the additional information proposed to be collected by the new form is not discussed or solicited by either the statute or the regulations. There was no rationale provided as to why such additional information would be needed now.

Here are some examples of likely issues that the new questions will create for N-648 applicants:

*Part 3, question 3. When did each disability or impairment begin?*

Many of the disabilities that would form a basis for the disability exception request do not have a clear date of onset. Unlike a heart attack or a stroke, depression, or post-traumatic stress disorder (PTSD), many disabilities do not necessarily start suddenly, but rather take time to develop gradually. Also, the date the disability or impairment began might be before the applicant's arrival to the U.S. Therefore finding medical records that document such date would be extremely arduous for U.S.-based medical providers.

*Part 3, question 4. Date(s) of diagnosis.*

It is not clear if the form is asking for the date the applicant was diagnosed with this disability for the very first time or the date of diagnosis of the applicant from the medical provider certifying the N-648 himself/herself. Also, listing a relatively recent diagnosis date would possibly create a red flag or even a presumption of fraud, when in fact the person could have been suffering from the impairment for a long time without having had a timely or correct diagnosis. This is especially true for immigrants who experience barriers to access to healthcare, both in the U.S. and in their home countries.

*Part 3, question 7. Describe severity of each disability and/or impairment.*

It is not clear what level of detail is needed to provide a satisfactory answer to this question. Additionally, providing too many details about the applicant's symptoms might lead to unnecessary disclosure of personal information and could lead to diminished trust between the doctors and their patients.

*Part 3, question 8. Describe how each relevant disability and/or impairment affect specific function of the applicant's daily life, including the ability to work, go to school.*

This question is overreaching as it goes well beyond anything required by the INA or the regulations. It could lead to the adjudicator's substituting his/her judgment about the applicant's ability to learn for that of a qualified physician's medical opinion in certifying this form. Answers to this question could invite finding of "discrepancies" where such discrepancies do not exist by conflating the ability to perform daily activities with the ability to study and learn English and civics.

*Part 3, question 22. Explanation for why you are certifying this form instead of the regularly treating medical professional.*

Increasingly, primary care providers (PCPs) are nurse practitioners or physician assistants who are not qualified to complete Form N-648 per USCIS instructions: "Only medical doctors, doctors of osteopathy, or clinical psychologists licensed to practice in the U.S. (including the U.S. territories of CNMI, Guam, Puerto Rico, and the Virgin Islands) are authorized to certify the form." It is especially common for medical practitioners at community and neighborhood clinics where many low-income immigrants are able to access healthcare to be nurse practitioners or physician assistants. Because of this prevalent situation, this question will unavoidably lead to the non-PCP certifying medical professional's speculation about the reason, often without any firsthand knowledge, or it will impose a burden on the certifying medical professional to investigate.

**C) New N-648 form will create additional and unjustified burden for everyone involved.**

a) Doctors: It has already been challenging for doctors and their patients to thoroughly complete the form N-648. The current form is often denied by the USCIS adjudicators because they perceive it to lack sufficient details. If the form becomes longer and more complex, it will present a significant challenge for physicians, and it will take additional time away from treating patients. There is currently no insurance reimbursement available to physicians for completing this form. Our experience shows that many doctors have adopted a policy of not completing this form for any patients due to the fact that it's so time-consuming and because of its relatively high denial rate. The new form, with its additional increased length and complexity of the information sought, will further exacerbate this trend and lead to eligible individuals being wholly unable to obtain certification of their N-648.

Physicians are not accustomed to providing information in a way that is compatible with the complex legal requirements of a naturalization application. It is often challenging for physicians to understand the necessity for detailed narrative information on the nexus between the applicant's disability and their inability to learn English or U.S. history and civics. The increased length and complexity of the new form, along with the lack of clear instructions or justification for additional questions will only increase the certifying medical professional's confusion.

b) Applicants: The intent of this form is to make sure that clients with disabilities and impairments can naturalize. The proposed form goes against this goal and creates additional obstacles for applicants with disabilities. Navigating the complex healthcare system in search of a qualified medical professional who will agree to

complete this increasingly long form is a huge burden for vulnerable applicants with disabilities.

- c) Nonprofit Service Providers: As mentioned previously, the City through NCC and NCP works closely with 20 local nonprofit agencies whose staff assist eligible legal permanent residents applying for naturalization. It is already a common practice for many of our community partners to communicate with physicians in order to make sure completed N-648s meet all the requirements outlined in the current instructions and policy manual, often involving a back and forth and several applicant visits to the physicians. If these forms become longer and more complex, we can expect such communications and processes between the physicians, applicants, and service providers to be even more time-consuming, more frequent, and potentially leading to the physicians declining to make any further corrections or explanations. This would further lead to eligible naturalization applicants not being able to get naturalized. This would also lead to increased inefficiencies and negatively impact the City's ability to help naturalize vulnerable residents.

### **III. Conclusion**

USCIS's proposed changes to Form N-648 and instructions will effectively reduce access to naturalization for people with disabilities. The proposed changes fail to meet the objectives of the Paperwork Reduction Act, lacking practical utility and making the process more rigid, impractical, and burdensome for applicants, their legal representatives, medical service professionals, and USCIS adjudicators.

The proposed form will create an undue burden for the most vulnerable applicants, a barrier preventing many eligible disabled applicants from naturalizing.

Because the proposed changes are unjustified and unnecessary and would make it more difficult for numerous qualified LPRs to request a disability exception, they conflict with requirements that federal policymaking and adjudications be consistent, reasoned, and designed to minimize burden on stakeholders. We are urging the USCIS to withdraw the proposed changes.

Thank you for your consideration of these comments. Please do not hesitate to contact Oksana Bilobran, Legal Defense Program and Policy Specialist at (206) 727-8740 or oksana.bilobran@seattle.gov, with any questions or concerns about this comment.

Sincerely,



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